

Senate Study Bill 1133

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
REVENUE BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act updating the Code references to the Internal Revenue Code,
2 providing for decoupling from a certain bonus depreciation
3 provision in the Internal Revenue Code, and including
4 effective and retroactive applicability date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1375XD 83
7 tw/mg:sc/5

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1 1 Section 1. Section 15.335, subsection 4, paragraph b, Code
1 2 2009, is amended to read as follows:
1 3 b. For purposes of this section, "Internal Revenue Code"
1 4 means the Internal Revenue Code in effect on January 1, ~~2008~~
1 5 2009.
1 6 Sec. 2. Section 15A.9, subsection 8, paragraph e,
1 7 subparagraph (2), Code 2009, is amended to read as follows:
1 8 (2) For purposes of this subsection, "Internal Revenue
1 9 Code" means the Internal Revenue Code in effect on January 1,
1 10 ~~2008~~ 2009.
1 11 Sec. 3. Section 422.3, subsection 5, Code 2009, is amended
1 12 to read as follows:
1 13 5. "Internal Revenue Code" means the Internal Revenue Code
1 14 of 1954, prior to the date of its redesignation as the
1 15 Internal Revenue Code of 1986 by the Tax Reform Act of 1986,
1 16 or means the Internal Revenue Code of 1986 as amended to and
1 17 including January 1, ~~2008~~ 2009.
1 18 Sec. 4. Section 422.5, subsection 1, paragraph k,
1 19 subparagraph (1), Code 2009, is amended to read as follows:
1 20 (1) Add items of tax preference included in federal
1 21 alternative minimum taxable income under section 57, except
1 22 subsections (a)(1), (a)(2), and (a)(5), of the Internal
1 23 Revenue Code, make the adjustments included in federal
1 24 alternative minimum taxable income under section 56, except
1 25 subsections (a)(4), (b)(1)(C)(iii), and (d), of the Internal
1 26 Revenue Code, and add losses as required by section 58 of the
1 27 Internal Revenue Code. To the extent that any preference or
1 28 adjustment is determined by an individual's federal adjusted
1 29 gross income, the individual's federal adjusted gross income
1 30 is computed in accordance with section 422.7, ~~subsection~~
1 31 subsections 39 and 39A. In the case of an estate or trust,
1 32 the items of tax preference, adjustments, and losses shall be
1 33 apportioned between the estate or trust and the beneficiaries
1 34 in accordance with rules prescribed by the director.
1 35 Sec. 5. Section 422.7, Code 2009, is amended by adding the
2 1 following new subsection:
2 2 NEW SUBSECTION. 39A. The additional first-year
2 3 depreciation allowance authorized in section 168(k) of the
2 4 Internal Revenue Code, as enacted by Pub. L. No. 110=185,
2 5 section 103, does not apply in computing net income for state
2 6 tax purposes. If a taxpayer has taken a deduction for
2 7 additional first-year depreciation in computing federal
2 8 adjusted gross income, the following adjustments to federal
2 9 adjusted gross income shall be made:
2 10 a. Add the total amount of depreciation taken on all
2 11 property for which the election under section 168(k) of the
2 12 Internal Revenue Code was made for the tax year.
2 13 b. Subtract an amount equal to depreciation allowed on
2 14 such property for the tax year using the modified accelerated
2 15 cost recovery system depreciation method applicable under
2 16 section 168 of the Internal Revenue Code without regard to
2 17 section 168(k).

2 18 c. Any other adjustments to gains or losses to reflect the
2 19 adjustments made in paragraphs "a" and "b", according to rules
2 20 adopted by the director.

2 21 Sec. 6. Section 422.7, subsection 53, Code 2009, is
2 22 amended by striking the subsection.

2 23 Sec. 7. Section 422.9, subsection 2, paragraphs h and i,
2 24 Code 2009, are amended to read as follows:

2 25 h. For purposes of calculating the deductions in this
2 26 subsection that are authorized under the Internal Revenue
2 27 Code, and to the extent that any of such deductions is
2 28 determined by an individual's federal adjusted gross income,
2 29 the individual's federal adjusted gross income is computed in
2 30 accordance with section 422.7, ~~subsection~~ subsections 39 and
2 31 39A.

2 32 i. The deduction for state sales and use taxes is
2 33 allowable only if the taxpayer elected to deduct the state
2 34 sales and use taxes in lieu of state income taxes under
2 35 section 164 of the Internal Revenue Code. A deduction for
3 1 state sales and use taxes is not allowed if the taxpayer has
3 2 taken the deduction for state income taxes or claimed the
3 3 standard deduction under section 63 of the Internal Revenue
3 4 Code. This paragraph applies to taxable years beginning after
3 5 December 31, 2003, and before January 1, ~~2006~~ 2010.

3 6 Sec. 8. Section 422.9, subsection 3, paragraph b, Code
3 7 2009, is amended to read as follows:

3 8 b. The Iowa net operating loss remaining after being
3 9 carried back as required in paragraph "a", ~~or "d", or "e",~~ or
3 10 if not required to be carried back shall be carried forward
3 11 twenty taxable years.

3 12 Sec. 9. Section 422.9, subsection 3, Code 2009, is amended
3 13 by adding the following new paragraph:

3 14 NEW PARAGRAPH. e. Notwithstanding paragraph "a", for a
3 15 taxpayer who has a qualified disaster loss as defined in
3 16 section 172(b)(1)(J) of the Internal Revenue Code, including
3 17 modifications prescribed by rule by the director, the Iowa
3 18 qualified disaster loss is a net operating loss which may be
3 19 carried back five taxable years prior to the taxable year of
3 20 the loss.

3 21 Sec. 10. Section 422.9, Code 2009, is amended by adding
3 22 the following new subsection:

3 23 NEW SUBSECTION. 9. In determining the amount of deduction
3 24 for federal income tax under subsection 1 or subsection 2,
3 25 paragraph "b", for tax years beginning in the 2009 calendar
3 26 year, if a refund is attributable to the receipt of an advance
3 27 refund pursuant to the federal Recovery Rebates and Economic
3 28 Stimulus for the American People Act of 2008, Pub. L. No.
3 29 110-185, the amount of the deduction for the tax year shall
3 30 not be adjusted by the amount of the advance refund, and the
3 31 amount of the advance refund shall not be taxable under this
3 32 division.

3 33 Sec. 11. Section 422.10, subsection 3, unnumbered
3 34 paragraph 2, Code 2009, is amended to read as follows:

3 35 For purposes of this section, "Internal Revenue Code" means
4 1 the Internal Revenue Code in effect on January 1, ~~2008~~ 2009.

4 2 Sec. 12. Section 422.32, subsection 7, Code 2009, is
4 3 amended to read as follows:

4 4 7. "Internal Revenue Code" means the Internal Revenue Code
4 5 of 1954, prior to the date of its redesignation as the
4 6 Internal Revenue Code of 1986 by the Tax Reform Act of 1986,
4 7 or means the Internal Revenue Code of 1986 as amended to and
4 8 including January 1, ~~2008~~ 2009.

4 9 Sec. 13. Section 422.33, subsection 5, paragraph d,
4 10 unnumbered paragraph 2, Code 2009, is amended to read as
4 11 follows:

4 12 For purposes of this subsection, "Internal Revenue Code"
4 13 means the Internal Revenue Code in effect on January 1, ~~2008~~
4 14 2009.

4 15 Sec. 14. Section 422.35, subsection 11, paragraph b, Code
4 16 2009, is amended to read as follows:

4 17 b. The Iowa net operating loss remaining after being
4 18 carried back as required in paragraph "a", ~~or "f", or "g",~~ or
4 19 if not required to be carried back shall be carried forward
4 20 twenty taxable years.

4 21 Sec. 15. Section 422.35, subsection 11, Code 2009, is
4 22 amended by adding the following new paragraph:

4 23 NEW PARAGRAPH. g. Notwithstanding paragraph "a", for a
4 24 taxpayer who has a qualified disaster loss as defined in
4 25 section 172(b)(1)(J) of the Internal Revenue Code, including
4 26 modifications prescribed by rule by the director, the Iowa
4 27 qualified disaster loss is a net operating loss which may be
4 28 carried back five taxable years prior to the taxable year of

4 29 the loss.

4 30 Sec. 16. Section 422.35, Code 2009, is amended by adding
4 31 the following new subsection:

4 32 NEW SUBSECTION. 19A. The additional first-year
4 33 depreciation allowance authorized in section 168(k) of the
4 34 Internal Revenue Code, as enacted by Pub. L. No. 110-185,
4 35 section 103, does not apply in computing net income for state
5 1 tax purposes. If a taxpayer has taken a deduction for
5 2 additional first-year depreciation in computing federal
5 3 taxable income, the following adjustments to federal taxable
5 4 income shall be made:

5 5 a. Add the total amount of depreciation taken on all
5 6 property for which the election under section 168(k) of the
5 7 Internal Revenue Code was made for the tax year.

5 8 b. Subtract an amount equal to depreciation allowed on
5 9 such property for the tax year using the modified accelerated
5 10 cost recovery system depreciation method applicable under
5 11 section 168 of the Internal Revenue Code without regard to
5 12 section 168(k).

5 13 c. Any other adjustments to gains or losses to reflect the
5 14 adjustments made in paragraphs "a" and "b", according to rules
5 15 adopted by the director.

5 16 Sec. 17. Section 422.35, subsection 24, Code 2009, is
5 17 amended by striking the subsection.

5 18 Sec. 18. RETROACTIVE APPLICABILITY.

5 19 1. The sections of this Act amending Code sections 15.335,
5 20 15A.9, 422.3, 422.9, subsection 3, 422.10, 422.32, 422.33, and
5 21 422.35, subsection 11, apply retroactively to January 1, 2008,
5 22 for tax years beginning on or after that date.

5 23 2. The sections of this Act amending Code sections 422.5,
5 24 422.7, new subsection 39A and subsection 53, 422.9, subsection
5 25 2, and 422.35, new subsection 19A and subsection 24, apply
5 26 retroactively to December 31, 2007, for tax years ending after
5 27 that date.

5 28 3. The section of this Act enacting section 422.9,
5 29 subsection 9, applies retroactively to January 1, 2009, for
5 30 tax years beginning in the 2009 calendar year.

5 31 Sec. 19. EFFECTIVE DATE. This Act, being deemed of
5 32 immediate importance, takes effect upon enactment.

5 33 EXPLANATION

5 34 This bill updates references in Code sections 15.335,
5 35 15A.9, 422.3, 422.10, 422.32, and 422.33 to the Internal

6 1 Revenue Code, making certain federal income tax revisions
6 2 enacted by Congress in 2008 applicable for purposes of the
6 3 corporate and individual income taxes and the franchise tax.

6 4 The bill amends certain Code sections related to the state
6 5 research activities tax credit for individuals, corporations,
6 6 corporations in economic development areas, and corporations
6 7 in quality jobs enterprise zones by updating references to the
6 8 Internal Revenue Code that include changes in the federal
6 9 research activities tax credit and the alternative incremental
6 10 research tax credit.

6 11 The bill amends certain sections of the individual and
6 12 corporate income taxes related to the computation of net
6 13 income (also known as "above-the-line" computation) by
6 14 decoupling, for Iowa income tax purposes, from the federal
6 15 accelerated depreciation deductions enacted by Congress as
6 16 part of the Recovery Rebates and Economic Stimulus for the
6 17 American People Act of 2008 ("the federal Economic Stimulus
6 18 Act of 2008"). The bill makes a number of changes in
6 19 conformance with these changes.

6 20 In certain circumstances, current law provides a deduction
6 21 from net income (a "below-the-line" deduction) for state sales
6 22 and use taxes in lieu of a deduction from income taxes. This
6 23 deduction was only available for taxable years beginning after
6 24 December 31, 2003, and before January 1, 2006. The bill
6 25 extends this deduction to taxable years beginning before
6 26 January 1, 2010.

6 27 The bill provides that advance refunds provided under the
6 28 federal Economic Stimulus Act of 2008, but not received until
6 29 2009, are not subject to tax and do not reduce the amount of
6 30 federal tax liability deductible for purposes of the Iowa
6 31 individual income tax.

6 32 The bill contains a number of retroactive applicability
6 33 provisions: (1) the section of the bill relating to advance
6 34 refunds under the federal Economic Stimulus Act of 2008
6 35 applies retroactively to January 1, 2009, for tax years
7 1 beginning in the 2009 calendar year; (2) the sections of the
7 2 bill relating to the decoupling from federal bonus
7 3 depreciation apply retroactively to December 31, 2007, for tax
7 4 years ending after that date; (3) all other sections of the

7 5 bill apply retroactively to January 1, 2008, for tax years
7 6 beginning on or after that date.
7 7 The bill takes effect upon enactment.
7 8 LSB 1375XD 83
7 9 tw/mg:sc/5